GYLA PRESENTED RESULTS OF CRIMINAL COURT MONITORING

On October 3, 2018, the Georgian Young Lawyers' Association presented its 12th monitoring report of criminal cases in Tbilisi, Kutaisi, Batumi, Gori and Telavi courts and Tbilisi and Kutaisi Appellate Courts.

The monitoring carried out by GYLA is funded by United States Agency for International Development (USAID) through the project □□□□□□□□□□ Rule of Law in Georgia" (PROLoG), implemented by the East-West Management Institute (EWMI). The project aims at improving the transparency of criminal proceedings and standards of human rights protection in Georgian courts by monitoring court hearings and analyzing factual information collected.

So far, GYLA has already prepared twelve monitoring reports, which covered the trends identified from October 2011 to March 2018. GYLA new report will present the results of more than 2000 court proceedings from February 2017 to February 2018.

The monitoring of criminal court trials has shown that a number of issues and legislative gaps observed by both the court and the Prosecutor's Office in the course of implementation of court proceedings have not been addressed yet.

As a result of the court monitoring, the following key findings have been identified:

- The rate of using the most severe measure of punishment - imprisonment and bail has always been high and in the reporting period it increased even more. Alternative preventive measures were imposed only in 3% of the cases.

- The unsubstantiated imposition of imprisonment and bail as preventive measures still remains problematic. Compared with the previous reporting period, the percent of unsubstantiated decisions slightly decreased. In particular, 17 (12%) out of 141 imprisonment was unsubstantiated and was not used as an extreme measure as required by the law. In 73 (30%) of the 245 cases bail was unsubstantiated and/or inadequately grounded.

- Prosecutors were still failing to collect relevant information on the financial situation of defendants in order to justify the amount of a bail. The prosecution did not pay attention to the material possibilities when motioning for a bail against 88% of defendants. In such cases, granting the demanded amount of bail by the court equals to imprisonment.

- The monitoring did not reveal any relevant response of the State to the cases of alleged torture / ill-treatment carried out by law enforcement employees, which defendants or participants to the proceedings declared at court hearings. The role of the judge in such cases is formal.

- Still problematic is the practice of conducting searches and seizures. In 92% of the cases, searches / seizures are carried out under urgent necessity, and are legalized by the court.

- The court monitoring has shown that judges demonstrate less diligence towards the

periodic review of the imprisonment and almost in all cases leave detention unchanged, and in most cases the Court fails to substantiate the necessity of extending the term of imprisonment.

- For the crimes which result in death of humans or damage to bodily health or property, often plea agreement are signed in such a manner that the position and interests of victims are not presented by prosecutors to the court.

- Often court hearings on the merits begin late or are postponed immediately after their opening, which leaves the impression that proceedings are deliberately delayed.

- The Parliament has not yet executed the judgment of the Constitutional Court of Georgia regarding drug related crimes, which leads to a non-homogeneous interpretation of the flawed legislative provision by the courts.

GYLA remains hopeful that the recommendations and conclusions prepared by GYLA will be taken into consideration by representatives of the judicial authorities. In addition, the report contains significant information for officials of the Prosecutor's Office and the Bar Association. We hope that our findings and recommendations will be carefully observed by the legislative body and promote the protection and respect of the rights of participants to criminal proceedings by introducing adequate legislative amendments. GYLA believes that taking into consideration the recommendations will further enhance and improve criminal justice system in Georgia.